TEXAS DEPARTMENT OF INSURANCE
Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
Rubeena Khan, D.C.

Respondent Name
State Office of Risk Management

MFDR Tracking Number
M4-16-2541-01

Carrier's Austin Representative
Box Number 45

MFDR Date Received
April 22, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "DESIGNATED DOCTOR EXAMINATION INCORRECT REDUCTION/PARTIAL PAY"

Amount in Dispute: $915.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "It is clear by the evidence submitted that Dr. Rubena Khan is the rendering provider, however is not the billing provider. Review of bills submitted reveals Genisis Medical Management is the billing provider whereas the information obtained in Box 25, 33 and 33 (a)(b) on the CMS 1500 does not reflect the billing provider's required information pursuant to this rule…

GMM has not met the requirements of Section 409.009, because the evidence did not establish that GMM has provided compensation, directly or indirectly, to the injured worker in this case. Accordingly, GMM does not have standing to assert subclaimant status and/or pursue compensability of the claimed injury…

The Office received a bill on 6/4/2015 whereas an audit completed issuing a payment in the amount of $900.00 … which mailed on 6/12/2015. A request for reconsideration was received on 8/7/2015 where an audit allowed an additional payment of $550.00 … which mailed on 8/25/2015.

Therefore, the Office found that payment(s) had been issued in accordance with the Division's rules and payment policies and no additional reimbursement is warranted as CPT code 99080-73 is a commission required report for CPT code 99456 W8 RE and is included in the payment of the Return to Work Exam."

Response Submitted by: State Office of Risk Management

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 26, 2015	Designated Doctor Examination	$915.00	$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 defines terms related to medical benefits.
3. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services.
4. Texas Labor Code §409.009 defines the role of a subclaimant.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - 296 – Service exceeds maximum reimbursement guidelines.
   - 309 – The charge for this procedure exceeds the fee schedule allowance.
   - P12 – Workers' compensation jurisdictional fee schedule adjustment.
   - 4150 – An allowance has been paid for a designated doctor examination as outlined in 134.204(j) for attainment of maximum medical improvement. An additional allowance may be payable if a determination of the impairment caused by the compensable injury was also performed.
   - 4151 – An allowance was not paid for the work status report. Reimbursement to RME doctors and designated doctors for the report is included in the reimbursement for the examination.
   - W3 – Additional payment made on appeal/reconsideration.
   - 947 – Upheld No additional allowance has been recommended.
   - 5080 – Based on the receipt of additional information and/or clarification, we are recommending further payment be made for the above noted procedure code(s).
   - 247 – A payment or denial has already been recommended for this service.
   - B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
   - 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.

Issues

1. Is the requestor eligible to request medical fee dispute resolution?
2. Did the insurance carrier raise the issue of an incorrectly completed bill in accordance with 28 Texas Administrative Code §133.307?
3. What is the maximum allowable reimbursement (MAR) for the disputed services?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The insurance carrier asserts that the requestor is not eligible to request medical fee dispute resolution because the requestor does not have standing as a subclaimant under Texas Labor Code §409.009. Review of the submitted documents finds that the requestor did not file the Medical Fee Dispute Resolution Request (DWC060) as a subclaimant. The DWC060 identifies the requestor as the health care provider. 28 Texas Administrative Code §133.2(2) defines an agent as:

   > A person whom a system participant utilizes or contracts with for the purpose of providing claims service or fulfilling medical bill processing obligations under Labor Code, Title 5 and rules. The system participant who utilizes or contracts with the agent may also be responsible for the administrative violations of that agent. This definition does not apply to "agent" as used in the term "pharmacy processing agent."

   The insurance carrier argued that "There is no evidence of there being a contractual relationship between Dr. Khan and Mr. Calderon giving Mr. Calderon the authority to file for medical fee dispute resolution on Dr. Khan behalf." 28 Texas Administrative Code §133.307 provides the requirements for documentation for a medical fee dispute. The division finds that evidence of a contractual relationship is not required for this

dispute. Therefore, the division finds that the requestor is eligible to request medical fee dispute resolution for the dispute in question.

2. In their position statement, the insurance carrier stated, "the information obtained in Box 25, 33, and 33 (a)(b) on the CMS 1500 does not reflect the billing provider's required information pursuant to this rule." 28 Texas Administrative Code §33.307(d)(2)(F) requires that "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

   Review of the submitted information finds that this issue was not presented to the requestor prior to the date the request for MFDR was filed. The division finds that the insurance carrier did not raise the issue of an incorrectly completed bill in accordance with 28 Texas Administrative Code §133.307. Therefore, this issue will not be considered for this dispute.

3. Per 28 Texas Administrative Code §134.204(j)(3), "The following applies for billing and reimbursement of an MMI evaluation… (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be $350." The submitted documentation supports that the requestor performed an evaluation of Maximum Medical Improvement. Therefore, the correct MAR for this examination is $350.00.

   Per 28 Texas Administrative Code §134.204(j)(4), "The following applies for billing and reimbursement of an IR evaluation. … (C)(ii) The MAR for musculoskeletal body areas shall be as follows. … (II) If full physical evaluation, with range of motion, is performed: (-a-) $300 for the first musculoskeletal body area." The submitted documentation supports that the requestor provided an impairment rating, which included a musculoskeletal body part, and performed a full physical evaluation with range of motion of the right upper extremity. Therefore, the correct MAR for this examination is $300.00.

   28 Texas Administrative Code §134.204 (j)(4)(B) states,

   > When multiple IRs are required as a component of a designated doctor examination … the designated doctor shall bill for the number of body areas rated and be reimbursed $50 for each additional IR calculation. Modifier 'MI' shall be added to the MMI evaluation CPT code.

   The submitted documentation indicates that the Designated Doctor was ordered to address Maximum Medical Improvement, Impairment Rating, and Extent of Injury. The narrative report and enclosed forms support that these examinations were performed, and 1 additional impairment rating was provided. Therefore, the correct MAR for this service is $50.00.

   Per 28 Texas Administrative Code §134.204(k),

   > The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be $500 in accordance with subsection (i) of this section and shall include Division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.

   Further, 28 Texas Administrative Code §134.204(i)(2) states,

   > When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection:
   > (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section;
   > (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in subsection (k) of this section; and
   > (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in subsection (k) of this section.

   The submitted documentation indicates that the Designated Doctor performed examinations to determine the extent of the compensable injury and the ability of the injured employee to return to work, as ordered by the Division. Therefore, the correct MAR for these examinations is $750.00.

Per 28 Texas Administrative Code §134.204(l), "The following shall apply to Work Status Reports. When billing for a Work Status Report **that is not conducted as a part of the examinations outlined in subsections (i) and (j) of this section** [emphasis added], refer to §129.5 of this title (relating to Work Status Reports)". Therefore, the filing of the DWC-073 is not separately payable when provided in conjunction with a Designated Doctor Examination performed according to 28 Texas Administrative Code §134.204(i).

4. The total MAR for the disputed services is $1450.00. Submitted documentation finds that the insurance carrier paid $1450.00. No further reimbursement is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 additional reimbursement for the services in dispute.

Authorized Signature

	Laurie Garnes	May 19, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.